

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:
EVELYN SANCHEZ FLORES

Debtor

Case No. **09-11115 (BKT)**

Chapter **13**

BANCO POPULAR

Movant

v.

EVELYN SANCHEZ FLORES, and

Respondent(s)

**ANSWER TO BANCO POPULAR'S
MOTION FOR RELIEF FROM STAY UNDER 11 USC SEC. 362**

TO THE HONORABLE COURT:

COME(S) NOW Debtor(s), through the undersigned counsel, and very respectfully answer the Motion for Relief from Stay as follows:

1. Paragraph 1 is admitted.
2. Paragraph 2 is admitted.
3. Paragraph 3 is denied as drafted.
4. Paragraph 4 is denied as drafted.
5. Paragraph 5 is denied.
6. Paragraph 6 is admitted with regards to the amount of months in pre-petition arrears. The rest of the allegations are denied.
7. Paragraph 7 is admitted.
8. Paragraph 8 is denied. Creditor has equity cushion.
9. Paragraph 9 is denied.
10. Paragraph 10 is does not require a responsive pleading. In the alternative is denied.
11. Paragraph 11 is does not require a responsive pleading. In the alternative is denied.
12. Paragraph 12 is denied as drafted
13. Paragraph 13 is does not require a responsive pleading. In the alternative is denied.

AFFIRMATIVE DEFENSES

1. On **December 28, 2009** Debtor filed a Voluntary Petition for relief under Chapter 13 of the Bankruptcy Code.

2. On June 14, 2011 **BANCO POPULAR** filed a Motion for Relief from Automatic Stay under section 362, alleging that the Debtor have an indebtedness of 2 months of post petition arrears for a total of \$ 501.06 in post petition arrears, plus legal fees, and other charges.

3. On January 2011 Debtor's working hours were reduced in half.

4. This unexpected situation have caused Debtor to fall behind in her mortgage loan with **BANCO POPULAR**.

5. On today's date Debtor filed a Motion for Post Confirmation Modification of Chapter 13 Plan to provide for payment of pre and post petition arrears to **BANCO POPULAR**.

6. Therefore, Debtor submits that the aforementioned Motion for Relief from Stay should be denied.

7. Moreover, the Debtor has sufficient equity in the property so as to afford Movant adequate protection of its interest.

8. Even if Movant is entitled to relief from the stay, the stay should not be terminated. The Court should grant a less drastic relief such as conditioning or modifying the stay under section 362(d).

9. Movant has not shown the irreparable harm necessary to justify lifting the stay with respect to its foreclosure.

10. Movant lacks standing to request that the stay be lifted. Movant is not the owner, and holder in due course of the mortgage note. Nor is it the validly appointed servicer of the note.

11. Movant has not demonstrated evidence of perfection of security interest, and is thus an unsecured creditor.

12. Movant has not complied with all requirements for obtaining the relief requested imposed by the Due Process of the Law, Bankruptcy Code, the Federal Bankruptcy Rules, and the Local Rules for the District of Puerto Rico.

NOTICE TO CREDITORS

Within fourteen **(14) days** after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the US Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will automatically send notification of such filing to all CM/ECF participants including the US Trustee, the Chapter 13 Trustee, and counsel for **BANCO POPULAR**.

I FURTHER CERTIFY that on this same date I sent a copy of the present document through regular US Mail to **BANCO POPULAR** at **MORTGAGE SERVICING PO BOX 362708, SAN JUAN, PR, 00936-2708**.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this June 29, 2011.

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